



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

COMMISSIONER'S OFFICE
SUITE 700, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-2848

JOHN C. SCHROER
COMMISSIONER

BILL HASLAM
GOVERNOR

February 9, 2018

Fiscal Review Committee
8th Floor, Rachel Jackson Bldg.
320 Sixth Avenue North
Nashville, TN 37243

RE: Amendment One Request
Claims Management Resources
Claims Collection
Edison #56024

Committee:

We would like to request that this proposed Amendment One for our claims collection be placed on the calendar of the March, 2018 Fiscal Review Committee meeting. The referenced contract provides for the collection of claims for the Tennessee Department of Transportation. Claims Management Resources has been the Contractor for this service since September 1, 2017 and was selected via the Invitation to Bid process performed by the Central Procurement Office.

This package contains the following materials as required by your office:

1. Revised Checklist for the Fiscal Review Committee
2. Supplemental Documentation Required for Fiscal Review Committee form.
3. Documentation for Current Total Expenditures for Fiscal Year 2018.
4. A copy of the original Contract Summary sheet.
5. A copy of the original signed contract between Claims Management Resources and the Department of Transportation.
6. A copy of the Approved Amendment Request.
7. A copy of the Contract Amendment Summary Sheet.
8. A copy of the proposed Amendment One to be signed representatives of the Department of Transportation and Claims Management Resources.

Please advise if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Schroer", is written over a horizontal line.

John C. Schroer
Commissioner

REVISED CHECKLIST EFFECTIVE APRIL 2014

Proposed non-competitive contracts with a term of more than one year or which contain a provision to allow for extension by either party that would extend the contract beyond 12 months and which have a cumulative value of not less than \$250,000, including all possible extensions; and

Any amendment to a contract (meeting the \$250,000 and over one year threshold) must be presented to the Fiscal Review Committee (FRC), *60 days prior to the proposed effective date*, if it meets any of the following conditions:

- increases or decreases the maximum liability;
- extends or shortens the original term of the contract;
- changes the entity or name of the entity with which the state is contracting; or
- otherwise changes an original contract or amended contract in a substantive manner.

If a department or agency is unsure if a contract or amendment meets the criteria of the FRC and should be submitted for review and commit, please contact the FRC staff for a determination.

Use the following checklist to ensure copies of the proper documentation has been submitted to the FRC staff:



SUMMARY LETTER

- Detailing terms of contract or amendment and detailed justification of why the goods or services should be acquired through non-competitive negotiation.
- If request is submitted less than 60 days before effective date, a detailed explanation for why the request is late.
PLEASE NOTE: LATE SUBMISSIONS WILL BE ROLLED FOR ONE COMMITTEE MEETING AND PLACED LAST ON THE AGENDA.



SUPPLEMENTAL DOCUMENTATION FORM – Form must be completely filled out with back-up documentation from Edison of total expenditures on the date submitted. No requests will be placed on the agenda if this form is not complete.



APPROVED RULE EXCEPTION REQUESTS (if appropriate)

**REVISED CHECKLIST
EFFECTIVE APRIL 2014**

- ☒ **APPROVED OFFICE FOR INFORMATION RESOURCES (OIR),
eHEALTH, OR HUMAN RESOURCES PRE-APPROVAL
ENDORSEMENT REQUESTS (if appropriate)**
- ☒ **SPECIAL CONTRACT REQUEST**
- ☒ **SUMMARY SHEET FOR CONTRACT (original or proposed)**
- ☒ **ANY REVISED SUMMARY SHEETS**
- ☒ **ORIGINAL CONTRACT**
 - If *new* non-competitive contract, actual language of the
proposed contract (can be in draft form if necessary).
- ☒ **SUMMARY SHEET FOR EACH PRIOR AMENDMENT**
- ☒ **ALL PRIOR EXECUTED AMENDMENTS**
- ☒ **REQUEST FORM and SUMMARY SHEET FOR PROPOSED
AMENDMENT**
 - If *new* amendment, actual language of the proposed
amendment (can be in draft form if necessary).
- ☒ **COPY OF PERFORMANCE BOND IF REQUIRED IN THE
CONTRACT (if performance bond must be renewed each year,
a copy of the renewal)**
- ☒ **ANY ADDITIONAL SUPPORTING DOCUMENTS**
- ☐ **FULLY EXECUTED COPY OF FINAL DOCUMENT
IMMEDIATELY UPON RECEIPT BY THE DEPARTMENT**

FRC STAFF COMMITTEE CONTACT INFORMATION:

Leni Chick, Contract & Audit Coordinator
8th Floor, Rachel Jackson Building
(615) 253-2048 (direct)
(615) 741-2564 (main line for FRC)
(E-mail address: leni.chick@capitol.tn.gov)

<http://www.capitol.tn.gov/joint/committees/fiscal-review>

Supplemental Documentation Required for Fiscal Review Committee

*Contact Name:	Victoria Hassinger	*Contact Phone:	615-532-3508
*Presenter's name(s):	Joe Galbato and Brian Carroll		
Edison Contract Number: <i>(if applicable)</i>	56024	RFS Number: <i>(if applicable)</i>	N/A
*Original or Proposed Contract Begin Date:	September 1, 2017	*Current or Proposed End Date:	August 31, 2020
Current Request Amendment Number: <i>(if applicable)</i>		One	
Proposed Amendment Effective Date: <i>(if applicable)</i>		June 1, 2018	
*Department Submitting:		Department of Transportation	
*Division:		Finance Division	
*Date Submitted:			
*Submitted Within Sixty (60) days:		Yes	
<i>If not, explain:</i>		N/A	
*Contract Vendor Name:		Claims Management Resources	
*Current or Proposed Maximum Liability:		\$3,500,000.00	
*Estimated Total Spend for Commodities:		N/A	
*Current or Proposed Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i>			
FY: 2018	FY:	FY:	FY:
\$3,500,000.00	\$	\$	\$
*Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from Edison)</i>			
FY:2018	FY:	FY:	FY:
\$187,873.28	\$	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:		N/A	
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:		N/A	
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:		N/A	

Supplemental Documentation Required for Fiscal Review Committee

*Contract Funding Source/Amount:			
State:	\$3,500,000.00	Federal:	N/A
Interdepartmental:	N/A	Other:	N/A
If "other" please define:		N/A	
If "interdepartmental" please define:		N/A	
Dates of All Previous Amendments or Revisions: (if applicable)		Brief Description of Actions in Previous Amendments or Revisions: (if applicable)	
None		N/A	
Method of Original Award: (if applicable)		CPO Invitation to Bid/Sourcing Event	
*What were the projected costs of the service for the entire term of the contract prior to contract award? How was this cost determined?		\$500,000.00 was the original projected costs and these costs were determined on an estimate of what we projected to be collected.	
*List number of other potential vendors who could provide this good or service; efforts to identify other competitive procurement alternatives; and the reason(s) a sole-source contract is in the best interest of the State.		Attached is the list that shows the number of companies notified of the bid.	

Edison # 56024

Results of Edison Query, TN_PU_CN021, Payments against a Contract. February 7, 2018 Run Date

[illegible]

Edson #56024 List of bidders earnestly notified

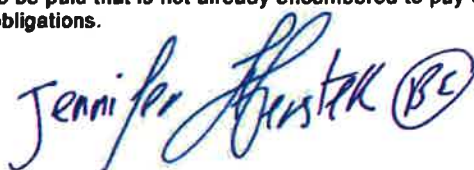
860 L 42

Unit	Event ID	Version	Last Upd	Bidder ID	Bid or Under Type	Location	Contact Sequence	Contact Name	Email ID	Addr	Seq	Dispatch Method
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	1		chris.benson@tn.gov		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	2		cpo.website@tn.gov		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	3		richard.vannorman@tn.gov		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	4		jennifer.herstek@tn.gov		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	5		tfudge@cmclaims.com		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	6		sales-marketing@cmclaims.com		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	7		info@claimsresource.com		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	8		pau@claimsresource.com		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	9		debtnt@wilberggroup.com		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	10		kwilber@wilberggroup.com		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	11		mcale@wilberggroup.com		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	12		mmverscough@wilberggroup.com		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	1	13		jpalumbo@wilberggroup.com		99999	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	P	CHICAGO-001	1	Leslie Ostrander			8	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	CUSTOMER SERVICE			3	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	NATASHA BLACKSHEAR			1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	DAVID LESLIE			1	E
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4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	JOHN S XANTHOPOULOS			1	E
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4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	TARA BOOSEY WILSON	tara.wilson@specialcounsel.com		1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	CHARLES A MILLER			1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	CHARLES SCOTT MANNING	TNINVESTIGATOR101@YAHOO.COM		1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	JACKSON-001	1	BOB JOHNSON			2	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	TRACEY M MCCARTNEY			1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	Kelly Edwards	kedwards@digitalconnections.com		1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	Allan F Ramsaur			1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	Allan F Ramsaur			1	E
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4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	CAT7-001	1	Pam Bertieri	pam_bertieri@gshlp.com		1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	Michael Archual	marchual@continuity.com		1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1				1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1				1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1				1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1				1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	CAT7-001	1	Patrick Baird	patrick@avys.solutions		1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	Patrick Dunn	bdunn@transperfect.com		1	E
4010x	000000983c	1	1/12/2017 13:54	PUBLIC_AUC	V	MAIN	1	William Haaland	bill@answeb.com		1	E



CONTRACT

(fee-for-goods or services contract with an individual, business, non-profit, or governmental entity of another state)

Begin Date September 1, 2017	End Date August 31, 2019	Agency Tracking # 40100-06118	Edison Record ID 56024		
Contractor Legal Entity Name Claims Management Resources			Edison Vendor ID 204623		
Goods or Services Caption (one line only) Claims Collection					
Contractor <input checked="" type="checkbox"/> Contractor		CFDA #			
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2018	\$500,000.00				\$500,000.00
TOTAL:	\$500,000.00				\$500,000.00
Contractor Ownership Characteristics: <input type="checkbox"/> Minority Business Enterprise (MBE): African American, Asian American, Hispanic American, Native American <input type="checkbox"/> Woman Business Enterprise (WBE) <input type="checkbox"/> Tennessee Service Disabled Veteran Enterprise (SDVBE) <input type="checkbox"/> Tennessee Small Business Enterprise (SBE): \$10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees. <input checked="" type="checkbox"/> Other: For profit corporation					
Selection Method & Process Summary (mark the correct response to confirm the associated summary)					
<input checked="" type="checkbox"/> Competitive Selection		Invitation to bid			
<input type="checkbox"/> Other		Describe the selection process used and submit a Special Contract Request			
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.  Jennifer Hester (BE)					
Speed Chart (optional)		Account Code (optional)			

Dept #4026210000

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
TENNESSEE DEPARTMENT OF TRANSPORTATION
AND
CLAIMS MANAGEMENT RESOURCES**

This Contract, by and between the State of Tennessee, Tennessee Department of Transportation ("Contracting Agency" in Section A or "State" in Sections B, C, and D) and Claims Management Resources, "Contractor"), is for the provision of Claims Collection, as further defined in the "SCOPE." The Contracting Agency and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is an Corporation. Contractor Place of Incorporation or Organization: 726 W Sheridan Ave. Oklahoma City, OK 73102

Contractor Edison Registration ID # 204623

A. SCOPE:

- A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.
- A.2. The Contractor shall manage cost recovery for damages to public highway property and incident response/cleanup on Tennessee's highways, including interstate highways and other state highways (the "State Highway System") or local government roadways, as applicable. This includes identifying damages to public highway property and incidents requiring an incident response, including cleanup activities; documenting repair costs and incident response/cleanup costs; investigating and identifying the individual or party responsible for the damage or incident; and collecting the repair costs or incident response/cleanup costs from the responsible party.
- A.3. Collection activities on any highway corridor that is the subject of a comprehensive maintenance agreement with the State of Tennessee Department of Transportation ("TDOT") may only be performed with the advance approval of TDOT. Currently, this includes TDOT Contract No. CNL500, effective until July 31, 2017, and as applicable to I-24 in Bedford and Rutherford Counties, I-65 in Williamson County, and I-840 from I-40 in Wilson County to US-31/SR-6 in Williamson County. Contractor shall not be responsible for managing cost recovery for damages to temporary facilities or property owned by the TDOT's highway construction or maintenance contractors within work zones on the State Highway System.
- A.4. Local governmental entities may use this Statewide Contract ("SWC") by contracting separately with the Contractor to recover property damage and incident response costs arising from incidents on the State Highway System or local government roadways, as applicable. Local governmental entities are defined as local governmental units within the geographic limits of the State of Tennessee, any private nonprofit or public institution of higher education chartered in Tennessee, and any corporation which is exempted from taxation under 26 U.S.C. § 501(c)(3) as amended and which contracts with the Department of Mental Health and Mental Retardation to provide services to the public (T.C.A. § 33-2-401 et seq.).
- A.5. Process Development. The Contractor will develop a process for identifying damaged property and incident responses on the State Highway System or local government roadways, as applicable; documenting repair costs and incident response/cleanup costs; identifying the individual or party responsible for the damage or incident; and collecting outstanding property damage and incident response claims.
 - a. The Contractor shall develop the method and manner of cost recovery, except that TDOT shall have the right to refer matters to the State of Tennessee Attorney General's Office, or

the local government shall have the right to refer matters to the local government's attorney, as applicable, for litigation.

- b. The Contractor shall establish a process for monitoring all claims, including maintaining a status report of all pending claims, which shall be submitted to the Contracting Agency quarterly or upon request.

A.6. Identification of Damaged Public Highway Property and Incident Response Costs.

- a. With respect to the State Highway System, the Contractor shall monitor Tennessee's Integrated Traffic Analysis Network ("TITAN") for damage to roads and facilities on the State Highway System. The Contractor shall also monitor data provided by TDOT's Maintenance Management System ("MMS") for incident response costs. In conjunction with TDOT's Maintenance Division, the Contractor shall acquire and maintain relevant damage data on State Highway System facilities, including without limitation the following:

- (1) Signs;
- (2) Signals;
- (3) Lighting;
- (4) Guardrail and cable rail;
- (5) Attenuators;
- (6) Crash cushions and traffic barrels;
- (7) Concrete barrier walls;
- (8) Retaining walls;
- (9) Curbs;
- (10) Fences;
- (11) Intelligent Transportation System ("ITS") facilities;
- (12) Paving;
- (13) Bridges and overpasses;
- (14) Drainage structures;
- (15) State vehicles and off road equipment;
- (16) Other Contracting Agency property; and
- (17) Incident responses and cleanup activities on the State Highway System, or local government roadway system, as applicable, including without limitation State, or local government, employee time.

- b. With respect to roadway damage and incident response costs incurred by local governments, as applicable, the Contractor shall monitor and maintain roadway damage data and incident response costs in a manner to be determined by the local government.

A.7. Documentation. The Contractor shall prepare the following documentation for each claim:

- a. Repair costs and estimates;
- b. Invoices;
- c. Crash reports;
- d. Claim demand letters;
- e. Insurance company claim acknowledgement letters;
- f. Related correspondence and written notes documenting communications with responsible parties, insurance companies, or others with respect to any claim;
- g. Payment receipts;
- h. Disposition of salvage; and
- i. Other documentation as required by the Contracting Agency, or to preserve a record of activities related to each claim.

A.8. Identification, Pursuit, and Payment of Claims.

- a. The Contractor shall:
- (1) Identify the individuals(s) and/or company which caused the damage or incident;
 - (2) Identify any responsible parties;
 - (3) Identify available insurance coverage;
 - (4) File any insurance claims and pursue the maximum recovery available, including repair costs or incident response costs; and
 - (5) Interact with Contracting Agency regarding negotiation with responsible parties or their representatives, including a payment process for non-insured motorists.
- b. The Contractor will attempt to recover claims and claims will remain open for up to nine (9) months after the initial demand for payment. If a promise of payment is established, the claim will remain open for an additional three (3) months.
- c. If payment of the claim has not been recovered, or a payment plan established, after twelve (12) months, Contractor shall refer the claim to the Contracting Agency with a recommendation either to close the claim, or refer it the Attorney General's Office, or local government attorney, as applicable, for legal action or approval of a negotiated settlement performed by the Contractor.
- d. The Contractor may recommend the claim for legal action or approval of a negotiated settlement prior to expiration of the twelve-month period after initiation of the claims process.
- e. A proposed negotiated settlement may be based on estimated costs of repair or incident response/cleanup costs or on a partial payment of the claim.
- f. If the decision is to refer the claim for legal action or approval of a negotiated settlement, the Contractor shall compile all relevant documentation regarding the claim and submit it to the Contracting Agency for further referral to the appropriate approving agency or legal counsel. The Contractor shall respond promptly to any requests for additional information regarding the claim.
- g. The Contractor shall seek recovery of the administrative cost authorized in Section C.3. from the responsible party. If payment is recovered, the administrative cost shall be included in the payment to the Contracting Agency, and the Contractor shall bill the Contracting Agency for payment of the administrative cost as provided in Section A.8.i. below.
- h. The Contractor shall request, and shall make its best reasonable effort to ensure, that all payments be made payable to the Contracting Agency. In the event any payment is made payable to Contractor, Contractor may deposit such payment and issue a check of equal amount payable to Contracting Agency. Upon receipt of any payments, the Contractor shall remit the full amount of all payments to the Contracting Agency, twice monthly, once by the 20th of the month and secondly by the 5th of the following month.
- i. The Contractor shall be entitled to payment of an administrative cost, established in Section C.3. as the percentage of each payment received (per claim), including claim payments recovered in full or as the result of an approved negotiated settlement performed by the Contractor; provided, however, that the total administrative cost shall not exceed five thousand dollars (\$5,000.00) for any single claim account. The Contractor shall not be entitled to an administrative cost on the payment of any claim that is recovered by the Contracting Agency as a result of legal action. The Contractor shall bill the Contracting Agency on a monthly basis for its share of the proceeds due as an administrative cost. Such invoices shall be submitted within 5 working days of the month being invoiced.

- j. If the Contracting Agency decides to close the claim, Contractor shall prepare documentation as needed for submittal of the request to the appropriate governmental agency to approve closure of the claim.

A.9. Reporting Requirements. The Contractor shall provide reports to the Contracting Agency as follows:

- a. The Contractor shall provide the reports electronically via e-mail in data format compatible with Microsoft Excel 2010 or in another data format mutually agreed upon by the Contracting Agency and the Contractor.
- b. The Contractor shall provide a claim inventory report on a monthly basis or upon request by the Contracting Agency. For each claim account currently opened by the Contractor, the report shall clearly identify the responsible party's name, the assigned account number, the date the account was opened, the status of the account (e.g., active, recommended or referred for settlement or closure, bankruptcy filed, etc.), the balance owed, and the total received.
- c. The Contractor shall provide a remittance report to the Contracting Agency each time the Contractor remits funds to the Contracting Agency, in accordance with Section A.8., as follows:
 - (1) For each account, the report shall identify the responsible party's name, the assigned account number, the date payment was collected, and whether the account is paid in full or in part;
 - (2) The report shall identify the total amount remitted; and
 - (3) The report shall identify any collections received directly by the Contracting Agency instead of the Contractor as notified by the Contracting Agency in accordance with Section A.15. below.
- d. The Contracting Agency reserves the right to request additional claim inventory reports or remittance reports, as well as modifications to previous claim inventory reports or remittance reports, at any time during the term of the Contract. Requests for additional reports beyond the number already detailed in this Section, or modifications to existing reports, excluding error corrections, shall be limited to ten (10) annually.

A.10. Licensure. The Contractor shall maintain such licenses, certificates, approvals or other registrations or authorizations as may be required by the State of Tennessee or any other state wherein collection activity is being conducted on behalf of the Contracting Agency. The Contractor shall obtain the necessary approvals to transact business within the State of Tennessee or other applicable state(s), and the Contractor must provide the Contracting Agency with a copy of such approvals prior to its commencement of services hereunder.

A.11. Account Manager. At a minimum, the Contractor shall designate one individual (the "Account Manager") to serve as a single point of contact regarding the services provided pursuant to this Contract. The Account Manager shall communicate by telephone and e-mail as necessary with the Contracting Agency and shall be available for contact in the event of any operational issues.

A.12. Regular Conference Calls. Contracting Agency and Contractor agree to establish monthly conference calls to review the results and progress of the program. Contracting Agency will include its management stakeholders and Contractor will include its management staff responsible for the success of the program. Following the first six months of the program with mutual consent, Contracting Agency and Contractor may decide to hold such conference calls

less frequently, but in any case, not less frequently than quarterly. Contractor and Contracting agency also agree to conduct annual, in-person meetings at Contracting Agency's location to hold an executive review of the program. Such meetings will include the executive leadership responsible for the program among others.

- A.12. Bankruptcy Notice. In the event the Contractor receives notice that a responsible party has filed a bankruptcy petition, the Contractor shall immediately cease all collection activities. The Contractor shall immediately send such bankruptcy notice and return all relevant account documentation to the Contracting Agency. Under no circumstances shall the Contractor file a proof of claim with the bankruptcy court, either in its own name or on behalf of the Contracting Agency. It shall be the responsibility of the Contracting Agency to prepare and file any proof of claim required and to forward to the Attorney General, or local government attorney, as applicable, any account which requires further legal action.
- A.13. Deceased Party. In the event the Contractor becomes aware that a responsible party is deceased, the Contractor shall immediately cease collection activities. The Contractor shall immediately notify the Contracting Agency of details available regarding the account, including estate information. The Contracting Agency shall either request return of the account if appropriate or request the Contractor attempt collection from the estate if applicable.
- A.14. Privacy Rights. The Contractor acknowledges the privacy rights of responsible parties and shall not release information concerning such party to any credit bureau or other third parties without full compliance with state and federal privacy laws and without prior approval of the Contracting Agency. Upon referring an account, the Contracting Agency shall make the determination if collection information can be released for the account, and such documentation shall be communicated in writing to the Contractor.
- A.15. Duties of the Contracting Agency (TDOT or Local Government). The Contracting Agency will be expected to perform the following duties in fulfilling its responsibilities under this Contract:
- a. The Contracting Agency shall refer all incident response claims to the Contractor in accordance with Contracting Agency policy. The Contracting Agency will refer claims to the Contractor in an electronic format, whenever reasonably possible.
 - b. TDOT shall coordinate with the Tennessee Department of Safety and Homeland Security to provide the Contractor with access to TITAN system. The local government, as applicable, shall provide the Contractor with access to, or provide information from, any other database as deemed necessary by the local government.
 - c. TDOT shall provide the Contractor with data from the MMS as needed to document repair costs and incident response/cleanup costs. The local government, as applicable, shall provide the Contractor with access to, or provide information from, any other database as deemed necessary by the local government.
 - d. The Contracting Agency will implement a standard parts and labor price sheet to assist the Contractor in preparing claim estimates. The Contracting Agency will work with the Contractor to calculate such standard charges based on historical data.
 - e. Except as otherwise provided in this Contract, claims referred to the Contractor by the Contracting Agency shall not be recalled by the Contracting Agency prior to the expiration of the time periods set out in Section A.8., Identification, Pursuit, and Payment of Claims, except as otherwise provided in Section A.8.
 - f. The Contracting Agency shall remit to Contractor the applicable share of the proceeds due as an cost in accordance with Section A.8. and Section C.3. of the Contract. The Contracting

Agency will make payment to the Contractor within 15 days of receipt of the Contractor's invoice.

- g. In the event the Contracting Agency receives any payment made directly to the Contracting Agency as a result of the Contractor's collection efforts, the Contracting Agency shall notify the Contractor daily. The notification shall identify the responsible party's name, the Contractor's assigned account number, the total amount paid, the date payment was received, and the Contractor's applicable administrative cost. The Contractor shall add the applicable administrative cost calculated in accordance with Section A.8. and Section C.3. of the Contract.

- A.16. Warranty. Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of the Term of this Contract or any other warranty general offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

Contractor represents and warrants that the Contracting Agency is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor's industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the Contracting Agency shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the Contracting Agency's rights under this Section shall not prejudice the Contracting Agency's rights to seek any other remedies available under this Contract or applicable law.

- A.17. Inspection and Acceptance. The Contracting Agency shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the Contracting Agency determines that the goods or services are Defective, the Contracting Agency shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the Contracting Agency. If after a period of thirty (30) days following delivery of goods or performance of services the Contracting Agency does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the Contracting Agency.

B. TERM OF CONTRACT:

- B.1. This Contract shall be effective on September 1, 2017 ("Effective Date") and extend for a period of twenty-four (24) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.
- B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to three (3) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months..

C. PAYMENT TERMS AND CONDITIONS:

- C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed five hundred thousand dollars (\$500,000.00) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- C.2. **Compensation Firm.** The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.
- C.3. **Payment Methodology.** The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
 - b. The Contractor shall be compensated based upon the following payment methodology:

Goods or Services Description	Amount (per compensable increment)
Administrative Cost (Per Section A.8.)	16.75% Percentage of Recovered Payment Amount (Per Claim)

- C.4. **Travel Compensation.** The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.
- C.5. **Invoice Requirements.** The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

State Agency Billing Address

- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):
 - (1) Invoice number (assigned by the Contractor);
 - (2) Invoice date;
 - (3) Contract number (assigned by the State);
 - (4) Customer account name: Tennessee Department of Transportation 505 Deaderick St, Ste 800 - Finance, Nashville TN 37243
 - (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
 - (6) Contractor name;
 - (7) Contractor Tennessee Edison registration ID number;
 - (8) Contractor contact for invoice questions (name, phone, or email);
 - (9) Contractor remittance address;
 - (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;

- (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
- (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
- (13) Amount due for each compensable unit of good or service; and
- (14) Total amount due for the invoice period.

b. Contractor's invoices shall:

- (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
- (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
- (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
- (4) Include shipping or delivery charges only as authorized in this Contract.

c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. MANDATORY TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and

regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.

- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Jennifer Herstek
Tennessee Department of Transportation
505 Deaderick St., Ste 800, Nashville, TN 37243
Jennifer.Herstek@tn.gov
Telephone # 615-741-8984

The Contractor:

Bill Haaland, Managing Partner
Claims Management Resources, Inc6
726 W. Sheridan Ave. Address
bhaaland@cmrclaims.com
Telephone # 405.606.8221

All instructions, notices, consents, demands, or other communications shall be considered effective upon receipt or recipient confirmation as may be required.

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. Either Party may terminate this Contract without cause for any reason. A party's exercise of its right to terminate this Contract for convenience shall not be deemed a breach of contract by either Party. The terminating Party shall give the other Party at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any good or service that has not been provided, nor shall

the Contractor be relieved of any liability to the State for any damages or claims arising under this Contract.

- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.
- D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.
- D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

- D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment One, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.
- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current,

written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.

- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless for any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.
- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

- D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.
- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

- d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.
- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
 - a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising

from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

- D.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes Attachments One and Two;
 - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
 - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
 - f. the Contractor's response seeking this Contract.

- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101 et seq., addressing contracting with persons with investment activities in Iran, shall be a material provision of this Contract. The Contractor agrees, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.32. Insurance. Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified below. The COI shall be provided ten (10) business days prior to the Effective Date and again upon renewal or replacement of coverages required by this Contract. If insurance expires during the Term, the State must receive a new COI at least thirty (30) calendar days prior to the insurance's expiration date. If the Contractor loses insurance coverage, does not renew coverage, or for any reason becomes uninsured during the Term, the Contractor shall notify the State immediately.

The COI shall be on a form approved by the Tennessee Department of Commerce and Insurance ("TDCI") and signed by an authorized representative of the insurer. The COI shall list each insurer's national association of insurance commissioners (also known as NAIC) number and list the State of Tennessee, Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 in the certificate holder section. At any time, the State may require the Contractor to provide a valid COI detailing coverage description; insurance company; policy number; exceptions; exclusions; policy effective date; policy expiration date; limits of liability; and the name and address of insured. The Contractor's failure to maintain or submit evidence of insurance coverage is considered a material breach of this Contract.

If the Contractor desires to self-insure, then a COI will not be required to prove coverage. In place of the COI, the Contractor must provide a certificate of self-insurance or a letter on the Contractor's letterhead detailing its coverage, liability policy amounts, and proof of funds to reasonably cover such expenses. Compliance with Tenn. Code Ann. § 50-6-405 and the rules of the TDCI is required for the Contractor to self-insure workers' compensation.

All insurance companies must be: (a) acceptable to the State; (b) authorized by the TDCI to transact business in the State of Tennessee; and (c) rated A- VII or better by A. M. Best. The Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that the subcontractors are included under the Contractor's policy.

The Contractor agrees to name the State as an additional insured on any insurance policies with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) ("Professional Liability") insurance. Also, all policies shall contain an endorsement for a waiver of subrogation in favor of the State.

The deductible and any premiums are the Contractor's sole responsibility. Any deductible over fifty thousand dollars (\$50,000) must be approved by the State. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements. The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

All coverage required shall be on a primary basis and noncontributory with any other insurance coverage or self-insurance carried by the State. The State reserves the right to amend or require additional endorsements, types of coverage, and higher or lower limits of coverage depending on the nature of the work. Purchases or contracts involving any hazardous activity or equipment, tenant, concessionaire and lease agreements, alcohol sales, cyber-liability risks, environmental

risks, special motorized equipment, or property may require customized insurance requirements (e.g. umbrella liability insurance) in addition to the general requirements listed below.

To achieve the required coverage levels, a combination of a specific policy written with an umbrella policy covering liabilities above stated limits is acceptable (For example: If appropriate limits are two million dollars (\$2,000,000) per occurrence and two million dollars (\$2,000,000) aggregate, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) aggregate written with an umbrella policy for one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) aggregate. If the deficient underlying policy is for coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area as well.

a. Commercial General Liability Insurance

- 1) The Contractor shall maintain commercial general liability insurance, which shall be written on an Insurance Services Office, Inc. (also known as ISO) occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises/operations, independent contractors, contractual liability, completed operations/products, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).
- 2) The Contractor shall maintain bodily injury/property damage with a combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least two million dollars (\$2,000,000).

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
 - i. Workers' compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
 - i. The Contractor employs fewer than five (5) employees;
 - ii. The Contractor is a sole proprietor;
 - iii. The Contractor is in the construction business or trades with no employees;
 - iv. The Contractor is in the coal mining industry with no employees;

- v. The Contractor is a state or local government; or
- vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Professional Liability Insurance

- i. Professional liability insurance shall be written on an occurrence basis. This coverage may be written on a claims-made basis but must include an extended reporting period or "tail coverage" of at least two (2) years after the Term;
- ii. Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
- iii. If the Contract involves the provision of services by medical professionals, a policy limit not less than two million (\$2,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.

- E.2. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Contract.

- E.3. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.
- E.4. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to #40100-9830 (Attachment Two) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and

Tennessee service-disabled veterans. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the required form and substance.

- E.5. **Partial Takeover of Contract.** The State may, at its convenience and without cause, exercise a partial takeover of any service that the Contractor is obligated to perform under this Contract, including any service which is the subject of a subcontract between Contractor and a third party (a "Partial Takeover"). A Partial Takeover of this Contract by the State shall not be deemed a breach of contract. The Contractor shall be given at least thirty (30) days prior written notice of a Partial Takeover. The notice shall specify the areas of service the State will assume and the date the State will be assuming. The State's exercise of a Partial Takeover shall not alter the Contractor's other duties and responsibilities under this Contract. The State reserves the right to withhold from the Contractor any amounts the Contractor would have been paid but for the State's exercise of a Partial Takeover. The amounts shall be withheld effective as of the date the State exercises its right to a Partial Takeover. The State's exercise of its right to a Partial Takeover of this Contract shall not entitle the Contractor to any actual, general, special, incidental, consequential, or any other damages irrespective of any description or amount.
- E.6. **Personally Identifiable Information.** While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify and/or procure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME: Claims Management Resources Inc.

August 15, 2017


CONTRACTOR SIGNATURE

DATE

William Haaland

Managing Partner

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

TENNESSEE DEPARTMENT OF GENERAL SERVICES, CENTRAL PROCUREMENT OFFICE:


Michael F. Perry, Chief Procurement Officer

DATE

DEPARTMENT OF TRANSPORTATION:



JOHN C. SCHROER, COMMISSIONER

AUG 18 2017

DATE



JOHN REINBOLD, GENERAL COUNSEL

APPROVED AS TO FORM AND LEGALITY

8/17/2017

DATE

Pro Forma ATTACHMENT 1

(Fill out only by selected Contractor)

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	55995
CONTRACTOR LEGAL ENTITY NAME:	Claims Management Resources Inc.
EDISON VENDOR IDENTIFICATION NUMBER:	204623

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.


CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

WJ HAALAND Managing Partner
PRINTED NAME AND TITLE OF SIGNATORY

9/15/2017
DATE OF ATTESTATION



August 15, 2017
Jennifer Nickoloff
Central Procurement Office
Department of General Services
William R. Snodgrass TN Tower – 3rd Floor
312 Rosa L. Parks Avenue
Nashville, TN 37243

RE: Edison Document # 204623

Dear Sir/Madam:

While Claims Management Resources (CMR) will not use sub-contractors in the fulfillment of the proposed contract with TN DOT, the company has and continues to explore opportunities to work with Tier I and Tier II suppliers. It is our practice to invite such suppliers to participate in securing products and services for which we outsource. Our success in securing such vendors/suppliers has been limited due primarily to the specific and specialized nature of our work.

CMR is an equal opportunity employer. Our employee handbook states: "We strive to maintain a workplace that is free of harassment and sensitive to the diversity of our employees. Therefore, we prohibit the use of computers and the email system in ways that are disruptive, offensive to others, or harmful to morale. CMR Internet and e-mail access may not be used for transmitting, retrieving or storing of any communications of a defamatory, discriminatory or harassing nature or materials that are obscene. No messages with derogatory or inflammatory remarks about an individual's race, age, disability, religion, national origin, physical attributes or sexual preference shall be transmitted. Harassment of any kind is strictly prohibited."

On a programmed basis - every two years - we invite minority and woman owned vendors to participate in competing for our outsourced services.
We do not maintain a formal document/policy, however we are required by audited contract to actively demonstrate the above process.

Sincerely,

William Haaland
Managing Partner

CLAIMS MANAGEMENT RESOURCES

Phone (800) 321-4158 | Fax (405) 605-3458 | www.CMRclaims.com

Amendment Request

This request form is not required for amendments to grant contracts. Route a completed request, as one file in PDF format, via e-mail attachment sent to: Agsprrs.Agsprsr@tn.gov

APPROVED


Kevin C. Bartels
for Michael F.
Perry

Digitally signed by Kevin C. Bartels
for Michael F. Perry
DN: cn=Kevin C. Bartels for Michael F.
Perry, o=CPO, ou,
email=Kevin.C.Bartels@tn.gov, c=US
Date: 2018.01.30 08:59:25 -06'00'

CHIEF PROCUREMENT OFFICER

DATE

Agency request tracking #	40100-06118	
1. Procuring Agency	Department of Transportation	
2. Contractor	Claims Management Resources	
3. Edison contract ID #	56024	
4. Proposed amendment #	One	
5. Contract's Original Effective Date	September 1, 2017	
6. Current end date	August 31, 2019	
7. Proposed end date	August 31, 2020	
8. Current Maximum Liability or Estimated Liability	\$ 500,000.00	
9. Proposed Maximum Liability or Estimated Liability	\$ 3,500,000.00	
10. Strategic Technology Solutions Pre-Approval Endorsement Request – <i>information technology service (N/A to THDA)</i>	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
11. eHealth Pre-Approval Endorsement Request – <i>health-related professional, pharmaceutical, laboratory, or imaging</i>	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
12. Human Resources Pre-Approval Endorsement Request – <i>state employee training service</i>	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
13. Explain why the proposed amendment is needed Increase amount of contract		
14. If the amendment involves a change in Scope, describe efforts to identify reasonable, competitive, procurement alternatives to amending the contract. N/A		

Agency request tracking #	40100-06118
Signature of Agency head or authorized designee, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)	
 JAN 25 2018	



CONTRACT AMENDMENT COVER SHEET

Agency Tracking # 40100-06118	Edison ID 56024	Contract # FA1856024	Amendment # One		
Contractor Legal Entity Name Claims Management Resources			Edison Vendor ID 204623		
Amendment Purpose & Effect(s) To add funds and increase term					
Amendment Changes Contract End Date: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		End Date August 31, 2020			
TOTAL Contract Amount INCREASE per this Amendment (zero if N/A):			\$ 3,000,000.00		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2018	\$500,000.00				\$500,000.00
2018	\$3,000,000.00				\$3,000,000.00
TOTAL:	3,500,000.00				\$3,500,000.00
American Recovery and Reinvestment Act (ARRA) Funding: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.			<i>CPO USE</i>		
Speed Chart (optional)	Account Code (optional)				

**AMENDMENT ONE
OF CONTRACT FA1856024**

This Amendment is made and entered by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and Claims Management Resources, hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract section B. TERM OF CONTRACT is deleted in its entirety and replaced with the following:

B. TERM OF CONTRACT:

B.1. This Contract shall be effective on September 1, 2017 ("Effective Date") and extend for a period of thirty six (36) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to two (2) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

2. Contract section C.1. Maximum Liability is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Three Million Five Hundred Thousand Dollars and No Cents (\$3,500,000.00) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective June 1, 2018. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

CLAIMS MANAGEMENT RESOURCES

SIGNATURE

DATE

PRINTED NAME AND TITLE OF SIGNATORY (above)

DEPARTMENT OF TRANSPORTATION:

JOHN C. SCHROER, COMMISSIONER

DATE

**JOHN REINBOLD, GENERAL COUNSEL
APPROVED AS TO FORM AND LEGALITY**

DATE